

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

ANTHONY TELLIS, ET AL.

CIVIL ACTION NO. 18-cv-0541

VERSUS

JUDGE ELIZABETH E. FOOTE

JAMES M. LEBLANC, ET AL.

MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Before the Court is Defendants' appeal of the Magistrate Judge's order granting Plaintiff's motion to compel depositions of three individuals previously deposed in this matter. [Record Document 308]. In his order, the Magistrate Judge concluded that taking a second deposition of the three individuals was proper under the Federal Rules of Civil Procedure, but placed limitations on the length and scope of the depositions. [Record Document 306 at 2]. Defendants appealed the Magistrate Judge's order, arguing that the Magistrate Judge erroneously concluded that Plaintiffs had shown good cause and that the order was "insufficiently definite to avoid further issues among the parties. . . ." [Record Documents 308 at 1 and 308-1 at 10]. Defendants state that the six hours of depositions at issue are an "extraordinary and burdensome remedy." [Record Document 308-1 at 2]. The Magistrate Judge's order is **AFFIRMED**.

Under the Federal Magistrate Act, a magistrate judge may issue binding rulings on non-dispositive matters. 28 U.S.C. § 636(b)(1)(A). A party that objects to such a ruling may appeal to the district judge who "must . . . modify or set aside any part of the order that is clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a). A clear error standard applies to a magistrate judge's findings of fact, while legal conclusions are reviewed de novo. *See Spillers v. Chevron USA Inc.*, No. 11-2163, 2013 WL 869387, at *3 (W.D. La. Mar. 6, 2013) (citing *Choate v. State Farm Lloyds*, No. 03-2111, 2005 WL 1109432, at *1 (N.D. Tex. May 5, 2005)). "A finding is 'clearly erroneous' when

although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948). Hence, reversal of a factual finding is improper whenever the “magistrate judge’s ‘account of the evidence is plausible in light of the record viewed in its entirety.’” *Smith v. Smith*, 154 F.R.D. 661, 665 (N.D. Tex. 1994) (quoting *Resolution Tr. Corp. v. Sands*, 151 F.R.D. 616, 619 (N.D. Tex. 1993)).

Having reviewed Plaintiffs’ motion to compel depositions, the Magistrate Judge’s order, and Defendants’ arguments on appeal, this Court cannot conclude that the Magistrate Judge’s ruling was clearly erroneous or contrary to law and thus the Magistrate Judge’s order is **AFFIRMED**.

THUS DONE AND SIGNED at Shreveport, Louisiana, this the 27th day of February, 2020.



ELIZABETH ERNY FOOTE
UNITED STATES DISTRICT JUDGE